

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

SCOTT D. H.,

Plaintiff,

v.

Civil Action No.
3:20-CV-0817 (DEP)

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF

LAW OFFICES OF KENNETH
HILLER, PLLC
6000 North Bailey Ave, Suite 1A
Amherst, NY 14226

JUSTIN M. GOLDSTEIN, ESQ.

FOR DEFENDANT

SOCIAL SECURITY ADMIN.
625 JFK Building
15 New Sudbury St
Boston, MA 02203

TIMOTHY SEAN BOLEN, ESQ.

DAVID E. PEEBLES
U.S. MAGISTRATE JUDGE

ORDER

Currently pending before the court in this action, in which plaintiff seeks judicial review of an adverse administrative determination by the

Commissioner of Social Security (“Commissioner”), pursuant to 42 U.S.C. § 405(g), are cross-motions for judgment on the pleadings.¹ Oral argument was heard in connection with those motions on October 13, 2021, during a telephone conference conducted on the record. At the close of argument, I issued a bench decision in which, after applying the requisite deferential review standard, I found that the Commissioner’s determination resulted from the application of proper legal principles and is supported by substantial evidence, providing further detail regarding my reasoning and addressing the specific issues raised by the plaintiff in this appeal.

After due deliberation, and based upon the court’s oral bench decision, which has been transcribed, is attached to this order, and is incorporated herein by reference, it is hereby

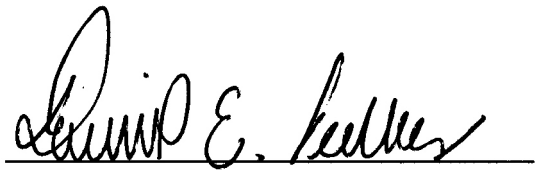
ORDERED, as follows:

1) Defendant’s motion for judgment on the pleadings is
GRANTED.

¹ This matter, which is before me on consent of the parties pursuant to 28 U.S.C. § 636(c), has been treated in accordance with the procedures set forth in General Order No. 18. Under that General Order once issue has been joined, an action such as this is considered procedurally, as if cross-motions for judgment on the pleadings had been filed pursuant to Rule 12(c) of the Federal Rules of Civil Procedure.

2) The Commissioner's determination that the plaintiff was not disabled at the relevant times, and thus is not entitled to benefits under the Social Security Act, is AFFIRMED.

3) The clerk is respectfully directed to enter judgment, based upon this determination, DISMISSING plaintiff's complaint in its entirety.

A handwritten signature in black ink, appearing to read "David E. Peebles", written over a horizontal line.

David E. Peebles
U.S. Magistrate Judge

Dated: October 21, 2021
Syracuse, NY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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SCOTT H.,

Plaintiff,

-v-

3:20-CV-817

COMMISSIONER OF SOCIAL SECURITY,

Defendant.
-----x

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE DAVID E. PEEBLES
October 13, 2021
100 South Clinton Street, Syracuse, New York

For the Plaintiff:
(Appearance by telephone)

LAW OFFICE OF KENNETH HILLER
6000 North Bailey Avenue
Suite 1A
Amherst, New York 14226
BY: **JUSTIN M. GOLDSTEIN, ESQ.**

For the Defendant:
(Appearance by telephone)

SOCIAL SECURITY ADMINISTRATION
J.F.K. Federal Building, Room 625
15 New Sudbury Street
Boston, Massachusetts 02203
BY: **TIMOTHY SEAN BOLEN, ESQ.**

Hannah F. Cavanaugh, RPR, CRR, CSR, NYACR, NYRCR
Official United States Court Reporter
100 South Clinton Street
Syracuse, New York 13261-7367
(315) 234-8545

1 (The Court and all parties present by telephone.
2 Time noted: 2:33 p.m.)

3 THE COURT: Plaintiff has commenced this proceeding
4 pursuant to 42, United States Code, Section 405(g) to challenge
5 an adverse determination by the Commissioner of Social Security
6 finding that he was not disabled at the relevant times and
7 therefore ineligible for the benefits that he sought.

8 The background is as follows: Plaintiff was born in
9 April of 1974. He's currently 47 years old. He was 41 years
10 old at the alleged onset of his disability on September 25,
11 2015. Plaintiff lives in a two-story house in the Binghamton,
12 New York area with his longtime girlfriend of 25 years, at least
13 at the time of the hearing, together with one daughter and three
14 dogs. Plaintiff has two other daughters that do not reside with
15 him. Plaintiff stands 5'9" or 5'10" in height and has weighed
16 at various times between 180 pounds prior to his accident and
17 280 pounds after. Plaintiff has an 11th grade education and
18 secured a GED in 2016.

19 The evidence is equivocal as to whether he was in
20 regular or special education classes. In the function report,
21 he indicated regular classes, but at the hearing at page 613 he
22 claimed that he was labelled and identified as learning
23 disabled. He has also undergone some vocational training and
24 was unsuccessful in attempting online college courses.
25 Plaintiff has a driver's license and can drive.

1 Plaintiff stopped working as a result of a motor
2 vehicle accident sustained in April of 2011, although he did try
3 on two or three occasions between 2012 and 2015 to return to
4 work without success. Plaintiff's work experience is somewhat
5 limited to employment at Frito-Lay where he worked beginning in
6 January of 1998. While there, he has worked as a packer, a
7 kitchen worker, a tester, and a box drop worker in the factory.

8 The plaintiff suffers from degenerative disc disease
9 of the lumbar area with radiculopathy, obesity, hyperlipidemia,
10 and some throat issues. He also was involved in a motor vehicle
11 accident, as I indicated, and sustained a left leg fracture. He
12 also experiences diabetes. As a result of the motor vehicle
13 accident, plaintiff suffered a back injury. The plaintiff has
14 had, since the time of the injury, several magnetic resonance
15 imaging testings and X-rays.

16 On October 20, 2011, he underwent MRI testing, which
17 resulted in an impression as follows: Degenerative endplate
18 changes at L1-L2, posterior disc bulges and small protrusions at
19 L4-L5 and L5-S1, no significant spinal canal or neuroforaminal
20 stenosis, that's at page 376.

21 X-rays of his lumbar area taken on December 7, 2011,
22 revealed some degenerative disc disease of the L5-S1 and L4-L5
23 disc levels and indicated there also appears to be degenerative
24 disc disease at the T12-1 and T11-T12 disc levels. The report
25 of that X-ray is at 380 and 381 of the Administrative

1 Transcript.

2 On October 22, 2012, MRI testing revealed a prominent
3 epidural lipomatosis at L5-S1. The impression given was tiny
4 right paracentral disc protrusion at L1-L2, L4-L5 small central
5 disc protrusion, and L5-S1 small central disc protrusion.
6 That's at page 292.

7 On August 31, 2016, X-rays were again taken of
8 plaintiff's lumbosacral spine. The impression was no
9 significant bony abnormality. It also reflected the height of
10 the vertical bodies and intervertebral disc spaces as relatively
11 well maintained. The pedicles are intact. There is a
12 transitional L5 vertical body. That's at page 403.

13 X-rays taken on October 7, 2017, resulted in the
14 impression of, "normal exam." And this is page 575 of the
15 Administrative Transcript.

16 Mentally, plaintiff suffers from depression and
17 anxiety, but has not undergone any specialized treatment by a
18 psychiatrist or psychologist, no hospitalization, and no
19 medications.

20 Plaintiff's general health concerns are taken care of
21 by UHS Medical Group and various professionals in that group.
22 Plaintiff was also seeing Dr. Douglas Taber, a chiropractor,
23 from January of 2013 to April of 2013, at which time he
24 underwent multiple manipulations under anesthesia, or MUAs. He
25 also has seen Dr. Kamlesh Desai, a back surgeon who he sees as

1 needed, and sees Dr. Desai one time per year for insurance
2 purposes. He also has seen Nurse Practitioner Meghan Laing who
3 works with him for general concerns, as well as the anxiety. He
4 sees Nurse Practitioner Laing also as needed.

5 In terms of medications, plaintiff has been
6 prescribed Venlafaxine or Effexor, Advil, Ibuprofen, Tylenol,
7 and Aleve. He's had relatively conservative treatment,
8 including physical therapy, home exercise, heat, and ice. He
9 declined to receive injections.

10 His activities of daily living include the ability to
11 shower, dress, groom, and shop. Plaintiff watches television,
12 socializes, and tinkers with cars. Plaintiff is not a current
13 smoker.

14 Procedurally, plaintiff applied for Title II benefits
15 on July 5, 2016, alleging an onset date of September 25, 2015.
16 It was noted that a prior application for benefits resulted in
17 an unfavorable Administrative Law Judge decision on
18 September 24, 2015, hence the onset date of September 25, 2015,
19 and the current application. In support of his claim for
20 disability benefits, plaintiff claims disability based on
21 displacement of thoracic or lumbar intervertebral radiculopathy,
22 anxiety, depression, and a broken leg. Administrative Law Judge
23 Robyn Hoffman conducted a hearing on August 24, 2018, to address
24 plaintiff's application for benefits. ALJ Hoffman issued an
25 unfavorable decision on June 12, 2019. That became a final

1 determination of the agency on May 22, 2020, when the Social
2 Security Administration Appeals Council denied plaintiff's
3 application for review. This action was commenced on July 20,
4 2020, and is timely.

5 In her decision, ALJ Hoffman applied the familiar
6 five-step test for determining disability. At step one, she
7 concluded that plaintiff had not engaged in substantial gainful
8 activity since September 25, 2015, through December 31, 2018,
9 which was the date on which he was last insured.

10 At step two, she concluded that the plaintiff does
11 suffer from severe impairments that impose more than minimal
12 limitations on his ability to perform basic work activities, and
13 specifically lumbar spine degenerative disc disease with
14 radiculopathy.

15 At step three, ALJ Hoffman concluded that plaintiff's
16 conditions do not meet or medically equal any of the listed
17 presumptively disabling conditions set forth in the
18 Commissioner's regulations, focusing on listing 1.04. She noted
19 in rejecting that listing that the mere presence of evidence of
20 epidermal lipomatosis does not necessarily demonstrate nerve
21 compression. The Administrative Law Judge next determined that
22 plaintiff retains the residual functional capacity
23 notwithstanding his conditions to perform less than a full range
24 of light work, and specifically lifting/carrying up to 25 pounds
25 occasionally, lift or carry up to 10 pounds frequently, stand or

1 walk for approximately seven hours total, and sit for up to five
2 hours total in an eight-hour workday with normal breaks. There
3 were other postural limitations and no mental-related
4 limitations set forth in the RFC.

5 At step four, Administrative Law Judge Hoffman
6 concluded that plaintiff could not perform his past relevant
7 work as a warehouse worker. She therefore went on to step five.

8 At step five, she noted initially that if plaintiff
9 could perform a full range of light work, a finding of no
10 disability would be required by the Medical-Vocational
11 Guidelines, or the so-called grids, and specifically Grid Rule
12 202.20. Because of the additional limitations that were found
13 in the RFC, she concluded based on the testimony of a vocational
14 expert that plaintiff nonetheless can perform available work in
15 the national economy, citing three representative jobs of
16 classifier, router, and assembler/production.

17 As you know, the Court's function in this case is
18 limited and extremely deferential. I must determine whether
19 correct legal principles were applied and the resulting
20 determination is supported by substantial evidence, defined as
21 such relevant evidence as a reasonable mind would find
22 sufficient to support a conclusion. As the Second Circuit noted
23 in *Brault v. Social Security Administration Commissioner*, 683
24 F.3d 443 from 2012, the standard is demanding, more so than the
25 clearly erroneous standard. The Court noted in *Brault* that once

1 there is a finding of fact, that fact can be rejected only if a
2 reasonable factfinder would have to conclude otherwise.

3 The plaintiff raises several contentions, some of
4 which are intertwined. In his brief, he contends that improper
5 weight was given to medical opinions in the record, and
6 particularly the treating source opinion of Dr. Desai.
7 Secondly, he contends that he carried his burden of establishing
8 that his condition meets or medically equals, at step three,
9 listing 1.04. He argues that the residual functional capacity
10 finding is unsupported and that the Administrative Law Judge
11 erred in evaluating his subjective complaints. Plaintiff
12 believes there is sufficient evidence in the record to firmly
13 establish disability and therefore seeks remand with a directed
14 finding for purely a calculation of benefits.

15 In terms of medical opinions, when there are
16 conflicting medical opinions in the record, as is the case here,
17 in the first instance it is for the Administrative Law Judge to
18 weigh and determine the weight to be given on those, *Veino v.*
19 *Barnhart*, 312 F.3d 578, Second Circuit, 2002. In this case, the
20 focus, of course, is on the physical components of plaintiff's
21 condition. Speaking to that, Dr. Desai, plaintiff's treating
22 orthopedic surgeon, has given multiple opinions in the case.

23 On September 16, 2015 -- and this is at pages 489 and
24 490 of the Administrative Transcript -- he notes the current
25 diagnosis of lumbar radiculopathy and states no heavy lifting,

1 avoid repetitive bending, lifting, twisting, pushing, pulling,
2 frequent position change. He also answers the question, is
3 plaintiff now able to work with reasonable -- I can't read my
4 own writing. Well, essentially continuity, and the answer
5 stated is no. And if so -- the question is, if so, when do you
6 think patient will be able to resume work. The answer is,
7 "disabled." Of course, those latter two are opinions on matters
8 reserved to the Commissioner.

9 On October 4, 2015, at pages 473 and 474, similarly
10 Dr. Desai opines no heavy lifting, avoid repetitive bending,
11 lifting, twisting, pushing, pulling, frequent position change.
12 He also indicates that plaintiff cannot return to either his
13 regular occupation or any occupation and that he is totally
14 disabled. Significantly, when asked what is the patient's
15 current treatment program, the response is, "home exercises."

16 On July 10, 2018, at pages 518 through 520, Dr. Desai
17 responds in a primarily checkbox form with opinions that are
18 basically extremely debilitating to the plaintiff. How many
19 city blocks can your patient walk or rest without severe pain,
20 zero. How many hours can your patient sit at one time before
21 needing to get up, zero. How many hours or minutes can the
22 plaintiff stand at one time before needing to sit down, zero.
23 In an eight-hour workday, the indication was plaintiff can sit
24 and stand/walk for less than two hours. On page 519, a
25 statement is made, "unable to work," in response to two of the

1 questions. When asked about lifting and carrying, Dr. Desai
2 said never for less than ten pounds. Look down, never. Turn
3 head left or right, never. Look up, never. Hold head in static
4 position, never. Twist, stoop, crouch, climb ladders, climb
5 stairs, never, in contrast to the earlier two opinions. And
6 hands: Grasp, turn, twist objects, never. Fingers: Fine
7 manipulation, never. Arms: Reaching, overhead, never.

8 The Administrative Law Judge addressed these opinions
9 at page 27 of the Administrative Transcript and gave Dr. Desai's
10 opinions no weight. Dr. Desai is a treating source and, of
11 course, because of when this application was filed, the former
12 regulations, and specifically 20 C.F.R. Section 404.1527
13 applies. And under the former regulations, it would narrow the
14 opinion of a treating physician regarding the nature and
15 severity of an impairment as entitled to considerable deference
16 provided it is supported by medically acceptable clinical and
17 laboratory diagnostic tests and techniques, and is not
18 inconsistent with other substantial evidence, *Veino*, 312 F.3d at
19 588. Such opinions are not controlling, however, if they are
20 contrary to other substantial evidence in the record, including
21 the opinions of other medical experts. If more conflicts arise
22 in the form of contradictorily medical evidence, as I indicated
23 earlier, the resolution is properly entrusted to the
24 Commissioner.

25 The regulation does go on to say that if controlling

1 weight is not accorded to a treating source, the ALJ must apply
2 several factors to determine the degree of weight, if any, to be
3 assigned to the opinion, and those factors are spelled out in 20
4 C.F.R. Section 404.1527, and the Second Circuit will sometimes
5 refer to those loosely as the Burgess factors. By the way, I do
6 not agree with plaintiff's assertion, to the extent that
7 assertion is made in the brief, that if the opinion of a
8 treating source -- it is improper to give zero weight to the
9 opinions of Dr. Desai. I think it is within the ALJ's realm and
10 prerogative to give it no weight if the weight is properly
11 explained and is supported by substantial evidence. In this --
12 and I also agree with the Commissioner that to the extent -- and
13 I'm not sure this is the case here, but to the extent that the
14 Burgess factors -- the regulatory factors are not specifically
15 all addressed per sé, if the Court makes a searching record
16 review and determines that the treating source opinion was
17 handled properly, then there's no need to remand, *Estrella v.*
18 *Berryhill*, 925 F.3d 90, Second Circuit, 2019.

19 In this case, Dr. Desai's opinions are given on a
20 checkbox form with little or no discussion, historically viewed
21 as fairly weak evidence. It is extreme and although maybe
22 standing alone, the fact that an opinion is extreme might not
23 suffice under the cases cited by the plaintiff as a reason for
24 rejecting the opinion. It is fair to say that it is
25 inconsistent with not only Dr. Desai's earlier opinions, his

1 treatment notes, and his prescription of home exercise, and so I
2 think that's a proper consideration. As I said before, opinions
3 regarding disability is a matter reserved to the Commissioner.

4 The opinion is inconsistent with the interrogatory
5 responses from Dr. Chandrasekhar and to a degree with Dr.
6 Jenouri's findings. I think it is not improper -- I understand
7 what plaintiff is saying, that Dr. Chandrasekhar did not examine
8 the plaintiff, but he had available to him every one of the
9 medical records associated with plaintiff's treatment and I
10 think it is proper to elevate the opinion of Dr. Chandrasekhar
11 over Dr. Desai, *Netter v. Astrue*, 272 F. App'x 54 from the
12 Second Circuit, 2008.

13 The test, as the Commissioner correctly argues, is
14 whether the treating source opinion is well supported and not
15 inconsistent with other substantial evidence. Here, I find that
16 neither prong is met. It is inconsistent with the treatment
17 notes, plaintiff's attempted work attempts, the fact that he is
18 engaged in some sort of home exercise program, and the fact that
19 he is receiving extremely conservative treatment consisting
20 primarily of over-the-counter medications, and did in fact
21 decline to undergo injections. I think those are all proper
22 considerations. *Tricarico v. Colvin*, 681 F. App'x 98 from the
23 Second Circuit, 2017, and *Ganoe v. Commissioner of Social*
24 *Security*, 2015 WL 9267442 from the Northern District of New York
25 on November 23, 2015.

1 So I believe that when the decision is read as a
2 whole, the treating source rule was not violated and that it was
3 proper to give no weight to Dr. Desai's extremely limiting
4 opinion. Dr. Jenouri examined the plaintiff and provided a
5 medical opinion. His report is at 399 to 402 of the
6 Administrative Transcript. He opines moderate to marked
7 restriction in walking, standing, and sitting long periods,
8 bending, stair climbing, lifting, and carrying. Clearly,
9 somewhat more restrictive than the residual functional capacity
10 finding, but less restrictive than Dr. Desai's opinions. The
11 opinion of Dr. Jenouri is discussed at page 27 by the
12 Administrative Law Judge and given little weight. There was no
13 direct -- I didn't see any direct challenge in plaintiff's brief
14 to the weight given. It's folded into the step three argument
15 to some extent. I think the Administrative Law Judge's
16 discussion of Dr. Jenouri's opinion could be more fulsome, but
17 when considering the record as a whole, including the ALJ's
18 discussion of the medical evidence which appears earlier,
19 including at page 26, I don't find any error.

20 Turning to the interrogatory responses of Dr.
21 Chandrasekhar, she gave interrogatory responses which appear at
22 pages 564 to 572 of the Administrative Transcript. In many
23 respects it supports the residual functional capacity finding,
24 although the doctor in some respects found less limitation than
25 the residual functional capacity finding and, of course, under

1 *Matta*, the Second Circuit's decision, there's -- it is not
2 required that the residual functional capacity finding track any
3 one single medical opinion. Dr. Chandrasekhar reviewed all of
4 the available records and appeared to testify and was cross
5 examined. The opinion was discussed at page 27 of the
6 Administrative Law Judge's decision and given great weight. The
7 ALJ, when faced with conflicting medical evidence, properly
8 exercised her discretion to afford more weight to Dr.
9 Chandrasekhar's opinions under *Veino* and I find no error in
10 weighing that opinion.

11 Turning to the step three argument, the focus is on
12 listing 1.04A. That listing is met or equal with evidence of
13 nerve root compression characterized by neuro-anatomic
14 distribution of pain, limitation of motion of the spine, motor
15 loss (atrophy with associated muscle weakness or muscle
16 weakness) accompanied by sensory or reflex loss, and, if there
17 is involvement of the lower back, positive straight leg raising
18 test (sitting and supine). The listing is discussed by
19 Administrative Law Judge Hoffman at page 25 of the transcript.
20 The burden, of course, of establishing that his condition meets
21 or equals any listing falls on the plaintiff and to satisfy a
22 listing, he must meet all of the criteria. Dr. Chandrasekhar
23 made it clear that the mere presence of a prominent epidermal
24 lipomatosis without clinical studies and EMG or nerve root
25 conduction studies does not alone provide evidence of nerve

1 compromise. I think it was proper to rely on that opinion. I
2 also agree with the Commissioner that it's unclear that the
3 straight leg raising from both sitting and seated position --
4 I'm sorry, seated and supine positions can be met and certainly
5 over the durational requirement necessary, so I think rejection
6 of equivalence or equalling or meeting listing 1.04A is properly
7 explained and supported by substantial evidence.

8 The next issue is whether the residual functional
9 capacity is supported by substantial evidence. An RFC
10 represents a range of tasks the plaintiff is capable of
11 performing notwithstanding his impairments, and ordinarily
12 represents the maximum ability to perform sustained work
13 activities in an ordinary setting on a regular and continuing
14 basis, meaning eight hours a day for five days a week or an
15 equivalent schedule. An RFC, of course, is informed by
16 consideration of all relevant medical and other evidence and, to
17 be proper, must be supported by substantial evidence. In this
18 case, the RFC is supported by Dr. Chandrasekhar's interrogatory
19 responses and we've already discussed why I believe the weight
20 given to those interrogatory responses was proper. It is
21 sufficient to provide substantial evidence to support the RFC
22 finding.

23 The last issue raised is what we used to call
24 credibility, the analysis of the plaintiff's subjective
25 complaints. Those complaints must be taken into account, of

1 course. When examining the issue, though, an ALJ is not
2 required to blindly accept the subjective testimony of a
3 claimant, but instead retains the discretion to weigh the
4 credibility of the claimant's testimony in light of the other
5 evidence in the record, *Grenier v. Astrue*, 606 F.3d 46, Second
6 Circuit, 2010.

7 When analyzing the subjective claims of a plaintiff,
8 the ALJ must follow SSR 16-3p, which details factors to be
9 considered including daily activities, the location, duration,
10 frequency, and intensity of pain or other symptoms, and factors
11 that precipitate and aggravate the symptoms; the type, dosage,
12 effectiveness, and side effects of any medication an individual
13 takes or has taken to alleviate pain or other symptoms;
14 treatment other than the medication an individual receives or
15 has received for relief for pain or other symptoms; any measures
16 other than treatment an individual uses or has used to relieve
17 the pain or other symptoms; and any other factors concerning an
18 individual's functional limitations/restrictions due to pain or
19 other symptoms.

20 In this case, the Administrative Law Judge applied
21 the so-called two-step analysis to address the plaintiff's
22 subjective claims. The analysis appears at page 26 and 27 of
23 the Administrative Transcript. The ALJ explained her reasoning
24 and she based it on conservative treatment, Dr. Desai's
25 treatment notes, many of which show that he was stable and can

1 do most activities, at page 283, for example. Treatment notes
2 also revealed little or no evidence of motor weakness. They
3 revealed normal gait in many, if not most, instances and the
4 ability to walk on heels and toes. She also relied on the
5 vocational assessment from December 14, 2014 -- that appears at
6 497 to 500 of the Administrative Transcript -- by Jacqueline
7 Oberman, a Senior Rehabilitation Specialist.

8 I agree with plaintiff's counsel that she is not an
9 acceptable medical source, but under 20 C.F.R. Section 404.1527,
10 subsection F, the opinion is still entitled to some
11 consideration. In that opinion, it reports that Mr. H [REDACTED] took
12 part in a functional capacity evaluation that occurred on
13 September 26, 2014, revealing he was able to sit for 30 minutes
14 maximum, stand for 30 minutes maximum, walk for one mile
15 continuously, lift 50 pounds maximum occasionally, 25 pounds
16 maximum frequently, and 10 pounds maximum continuously. He was
17 able to carry a maximum of 40 pounds occasionally. He had a
18 pushing/pulling capacity of 60 pounds. He had difficulty
19 bending at the waist, but could climb down and up one flight of
20 stairs, kneel, crouch, crawl slowly, and reach in all directions
21 with both arms. He was found able to work in a medium-strength
22 category. He was restricted from pushing or pulling more than
23 60 pounds, balancing activities that require crouching and
24 stooping. That provided a proper basis, as well as the other
25 factors just mentioned, for the Administrative Law Judge to

1 reject plaintiff's claim of debilitating pain.

2 So I find no error in the Administrative Law Judge's
3 analysis of plaintiff's subjective complaints. In conclusion, I
4 find that correct legal principles were applied and substantial
5 evidence supports the Administrative Law Judge's determination
6 and will therefore grant judgment on the pleadings to the
7 defendant and order dismissal of plaintiff's complaint.

8 Thank you both. Have a good afternoon.

9 MR. GOLDSTEIN: Thank you, your Honor.

10 MR. BOLEN: Thank you.

11 (Time noted: 3:08 p.m.)

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CERTIFICATE OF OFFICIAL REPORTER

I, HANNAH F. CAVANAUGH, RPR, CRR, CSR, NYACR, NYRCR, Official U.S. Court Reporter, in and for the United States District Court for the Northern District of New York, DO HEREBY CERTIFY that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 18th day of October, 2021.

s/ Hannah F. Cavanaugh

HANNAH F. CAVANAUGH, RPR, CRR, CSR, NYACR, NYRCR
Official U.S. Court Reporter